



Public Notice

U.S. Army Corps Of Engineers Galveston District	Permit Application No: _____	24071
	Date Issued: _____	18 May 2007
	Comments Due: _____	2 July 2007

**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

PURPOSE OF PUBLIC NOTICE: To solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. Notice is hereby given of the release of the Draft Environmental Impact Statement (DEIS), the public comment period for the DEIS, the date and location of the Public Hearing, and revised plans for the Calhoun County Navigation District's (CCND) proposed improvement of the Matagorda Ship Channel (MSC).

AUTHORITY: This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act (CWA), and Section 103 of the Marine Protection, Research and Sanctuaries Act.

APPLICANT: Calhoun County Navigation District
P.O. Box 397
Point Comfort, Texas 77978-0397

AGENT: URS Corporation
9801 Westheimer Road, Suite 500
Houston, Texas 77042-3953
Telephone: 713-914-6456
POC: Mr. Mark Mazoch, P.E.

WATERWAY AND LOCATION: The project is located in the MSC, Calhoun and Matagorda Counties, Texas. The proposed project site extends from the existing CCND berthing facilities at the Port of Port Lavaca-Point Comfort, through Lavaca Bay and Matagorda Bay, and ending offshore in the Gulf of Mexico. The project can be located on the U.S. Geological Survey quadrangle maps entitled Decros Point, Port O'Connor, Seadrift NE, Carancahua Pass, Keller Bay, Port Lavaca East, Turtle Bay, Olivia, and Point Comfort, Texas. Please see the attached vicinity map for project location.

BACKGROUND: In January 2006, the CCND submitted a Department of Army Permit Application to widen and deepen the MSC and to dredge a new turning basin and marine slip. It was determined that an Environmental Impact Statement (EIS) would be required for the proposed project. Since the April 25, 2006, scoping meeting, the consulting firm of PBS&J, under the direction of the Galveston District, U.S. Army Corps of Engineers (Corps), prepared a DEIS for the proposed project. The DEIS is now available for public review and comment.

To address the complex issues associated with the proposed project, we have invited the following Federal and state agencies to provide technical advice during preparation of the EIS:

- National Marine Fisheries Service (NMFS)
- United States Coast Guard
- United States Fish and Wildlife Service (FWS)
- United States Environmental Protection Agency (EPA)
- Texas Commission on Environmental Quality (TCEQ)
- Texas General Land Office
- Texas Parks and Wildlife Department
- Texas Department of Transportation

PROJECT DESCRIPTION: The CCND proposes to deepen their berthing facilities at the Port of Port Lavaca-Point Comfort (Port), enlarge the approximately 26.6-mile-long MSC from the existing turning basin at the Port (Channel Station 117+223), through Lavaca Bay and Matagorda Bay, and ending offshore in the Gulf of Mexico (Channel Station -23+000). A proposed new turning basin at the intersection of the MSC and the Alcoa Channel would have a 1,650-foot turning circle, and the existing CCND berthing facilities, the existing and proposed turning basins, and a proposed new CCND berthing area adjacent to the proposed new turning basin would be dredged to a depth of -44 feet Mean Low Tide (MLT). The authorized channel dimensions of the MSC, from the Port to the Matagorda Peninsula, are 200 feet wide (bottom width) by -36 feet MLT deep, and the CCND proposes to enlarge this reach to 400 feet wide by -44 feet MLT deep (plus 2 feet of advanced maintenance depth and 2 feet of overdepth). The existing authorized channel dimensions through the Matagorda Peninsula are 300 feet wide by -36 feet MLT deep, and the CCND proposes to enlarge this reach to 600 feet wide by -46 feet MLT deep (plus 3 feet of advanced maintenance and 2 feet of overdepth). In the Gulf of Mexico, the existing authorized channel dimensions are 300 feet wide by -38 feet MLT deep, and CCND proposes to enlarge the offshore reach to 600 feet wide by -46 feet MLT deep (plus 3 feet of advanced maintenance and 2 feet of overdepth). The CCND proposes to use both hydraulic and mechanical dredges, including hopper dredges, to perform new work and maintenance dredging of the proposed project. Approximately 46.5 million cubic yards of new work dredged material would be generated from the proposed widening and deepening project. Maintenance dredging of the proposed channel would generate approximately 257.5 million cubic yards of material during the 50-year planning period.

Dredged material would be used to create or protect habitats, nourish beaches, and cap mercury-impacted sediments, and would be placed in confined dredged material placement areas (DMPA's) in bays and on land, and in unconfined DMPA's in Matagorda Bay and in unconfined ocean dredged material disposal sites (ODMDS) in the Gulf of Mexico. Additional dredging and placement of 400,000 cubic yards of dredged material would create a levee designed to protect habitat.

NOTE: The applicant's project plans are enclosed in 6 sheets. The project plans, in 46 sheets, can be viewed in their entirety at www.swg.usace.army.mil/reg/pn.asp along with the mitigation plans in 24 sheets.

AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS): Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as amended and as implemented by the Council on Environmental Quality (40 CFR Parts 1500-1508), a DEIS for the proposed Matagorda Ship Channel Improvement Project has been filed with the EPA and is being made available to Federal, state, and local agencies and all interested parties. The DEIS can be viewed at www.swg.usace.army.mil/reg/pn.asp. Copies of the DEIS are available by contacting Ms. Denise Sloan, Corps of Engineers, Galveston District, P.O. Box 1229, Galveston, Texas 77553-1229 or by calling 409-766-3962. In addition, copies of the DEIS are available for viewing at the following libraries:

- Calhoun County Public Library, Port O'Connor Branch, P.O. Box 424, Port O'Connor, TX 77982.
- Calhoun County Public Library, Point Comfort Branch, P.O. Box 382, Point Comfort, TX 77978.
- Victoria Public Library, 302 N. Main, Victoria, TX 77901.
- Jackson County Memorial Library, 411 N. Wells, Room 121, Edna, TX 77957.
- Palacios Library, 326 Main St., Palacios, TX 77465.
- Matagorda County Library, Bay City Branch, 1100 7th St., Bay City, TX 77414.

WATER QUALITY CERTIFICATION: This project would result in a direct impact of greater than three acres of waters of the state or 1500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with Corps processing of this application, the TCEQ is reviewing this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. **The public comment period for water quality certification extends 30 days from the date of publication of this notice.**

A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

SECTION 102/103 OF THE MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT (MPRSA): The EPA is charged with developing ocean dumping criteria to be used in evaluating permit applications under Section 102(a) of the MPRSA. The EPA is also responsible for designating recommended sites for ocean dumping under Section 102(c) of the MPRSA. Section 103 of the MPRSA authorizes the Corps to permit the placement of dredged material within an ODMDS, subject to EPA concurrence and use of the EPA's dumping criteria. With concurrence from the EPA, the placement of approximately 11.9 million cubic yards of new work (virgin) dredged material from construction of the proposed project into a new, one-time use ODMDS may be authorized by the Corps under Section 103 of the MPRSA. Similarly, with EPA concurrence, the Corps may authorize continued use of the existing maintenance material ODMDS following construction of the proposed project under Section 103 of the MPRSA. Information associated with the Section 103 authorizations is included in the DEIS (primarily in Appendix L).

OTHER AGENCY AUTHORIZATIONS: Texas Coastal Zone consistency certification is required. The applicant has stated that the project is consistent with the Texas Coastal Management Program goals and policies and will be conducted in a manner consistent with said program.

NATIONAL REGISTER OF HISTORIC PLACES: The staff archaeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic resources and the effects of the proposed project upon these properties: The Corps Staff Archeologist is coordinating with the Texas State Historic Preservation Office and the CCND to develop a set of special conditions to be placed on this permit, should it be authorized. These special conditions shall ensure that all cultural resource concerns have been adequately cleared, per Appendix C of 33 CFR 325, prior to the initiation of project activities in an area.

THREATENED AND ENDANGERED SPECIES: Preliminary indications are that the proposed project may affect a few Federally listed endangered or threatened species. The project may affect and is likely to result in adverse effects to the following species: loggerhead sea turtle, Kemp's ridley sea turtle, hawksbill sea turtle, and green sea turtle. The project, however, is unlikely to jeopardize/destroy or adversely modify critical habitat for any listed species. The piping plover may experience a beneficial effect from the proposed project resulting from habitat enhancement (i.e., shoreline nourishment) through beneficial use of dredged material. A draft Biological Assessment has been prepared and is presented to the FWS and the NMFS in the DEIS.

ESSENTIAL FISH HABITAT: Our initial determination is that the proposed action would not have a substantial adverse impact on Essential Fish Habitat or Federally managed fisheries in the Gulf of Mexico, but might result in a benefit to EFH species by increasing the productivity in the bay system. Our final determination relative to project impacts and the need for mitigation measures is subject to additional review by and coordination with the NMFS.

PUBLIC INTEREST REVIEW FACTORS: The application will be reviewed in accordance with 33 CFR 320-330, the Regulatory Programs of the Corps, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against reasonably foreseeable detriments associated with the proposal. All factors which may be relevant to the proposal will be considered. These include, but are not limited to: dredged material management, air quality, shoreline erosion, economics, general environmental concerns, historic resources, protected species, navigation, recreation, water and sediment quality, energy needs, safety, hazardous materials, and, in general, the welfare of the people.

SOLICITATION OF COMMENTS: The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments will be considered in the evaluation of impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments will be used in the preparation of the Final Environmental Impact Statement pursuant to NEPA. Comments are also used to determine the overall public interest of the proposed activity.

PUBLIC COMMENT AND PUBLIC HEARING: If you wish to voice your comments, a public hearing on the proposed project is scheduled for June 5, 2007, at the Bauer Community Center, 2300 North Highway 35, Port Lavaca, Texas 77979. Poster presentations will be available for viewing and project team members will be present to discuss the DEIS at a workshop that will precede the hearing. The Workshop will be conducted from 5:00 pm to 6:45 pm, and the formal public hearing will commence at 7:00 pm. This public hearing is to provide an opportunity for all interested persons to comment and provide information to the Corps for use in preparing the Final EIS. Every effort will be made to address concerns/issues identified in the DEIS. Please bring this notice to the attention of others known to be interested in the subject of the meeting.

CONDUCT OF THE PUBLIC HEARING: The District Engineer (DE), Galveston District, Corps of Engineers, will serve as the presiding officer at the public hearing. The DE will take all actions necessary to conduct a fair, impartial, and orderly meeting. To this end, powers of the DE include, but are not limited to, the following:

- a) To regulate the course of the meeting and conduct of the parties, their counsel, and the public in attendance.
- b) To establish reasonable time limits for oral statements of parties, their counsel, or representatives.
- c) To receive into evidence all written statements, charts, tabulations, and similar data.
- d) To ask questions of speakers for purposes of clarification.

All persons will be given an opportunity to present oral and written statements, including documentary materials, at the public hearing. Any person will be entitled to be represented by, or speak through, legal counsel or other representative, to call witnesses who may present oral statements, and to present recommendations as to an appropriate study, or other considerations. Prior to the opening of the hearing, each person will be requested to complete an attendance card. The attendance card will contain information blocks on which persons attending the public hearing can give their name, address, and whether they wish to present an oral statement during the public hearing.

Statements and information may be provided without restriction by formal procedures and rules of evidence; however, all statements and information provided must concern the subject matter of the hearing.

All statements shall be addressed to the DE. Cross-examination of any person addressing the public meeting, by any person in attendance, will not be allowed

The DE, or representative, will be given the first opportunity to speak and will be allowed the necessary time to complete their oral statement. Other persons intending to address the public hearing will be called upon and should come prepared to complete their oral statement in not more than five minutes (subject to change based on attendance). Statements by any person that cannot be completed within the time allotment should be summarized orally, and the full text submitted in writing.

Written statements or information materials for inclusion in the record, including documentary materials, may be presented during the public hearing or may be mailed to the DE, Galveston District, Corps of Engineers, at the following address:

U.S. ARMY ENGINEER DISTRICT, GALVESTON
ATTENTION: CESWG-PE-RB
P.O. BOX 1229
GALVESTON, TEXAS 77553-1229

All statements, both oral and written, will become part of the official record of the public hearing and will be made available for public examination. Mailed statements to be included in the record must be mailed on or before July 2, 2007.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before **July 2, 2007**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should be submitted to:

Denise Sloan
Regulatory Branch, CESWG-PE-RB
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3962 Phone
409-766-6301 Fax

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